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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,841	01/21/2004	Michael Oberlander	34534	5861

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Hovey Williams LLP
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2405 Grand Boulevard
Kansas City, MO 64108

EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/762,841

Applicant(s)

OBERLANDER ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/5/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. Claims 5, 18, 19, 30, 39 and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5 and 19 are indefinite because the Markush language “selected from the group consisting of” should be followed by “and”, and not “or”, see MPEP 2173.05(h)(I).

In claim 18, line 6, the acronym “TKPP” should be spelled out. In addition, it is suggested that “phosphate” before “builder” in line 6 be deleted to avoid redundancy.

In claims 30 and 40, line 1 of each claim, the phrase “said first aqueous component” lacks support with respect to claim 28 which refers to “a first aqueous phase”.

In claim 39, line 1, the phrase “said second aqueous component” lacks support with respect to claim 28 which refers to “a second aqueous phase”.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

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evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3, 9-15, 17, 28-29, 34-38 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scialla et al. (US 2004/0147423), hereinafter "Scialla".

Scialla teaches stable aqueous laundry products provided in a first and second part wherein the first part comprises a cleaning composition comprising a hydrophobic bleach activator, and the second part comprises a bleaching composition comprising a peroxyacid, wherein the first part is physically separated from the second part until dispensed into a drum (see [0018-0019] on page 2). It is believed that by physically separating two parts of such a liquid laundry product until the time (or near the time) of use, the product formulator is provided with an opportunity to provide cleaning and fabric care advantages not possible within a single-compartmentalized product (see [0026] on page 2). The first part cleaning composition is preferably a liquid detergent composition (see [0048] on page 3), which comprises the hydrophobic bleach activator and optionally, one or more cleaning adjunct materials (see [0050-0052] on page 4), for example, a surfactant system which is single surfactant or a mixture of two or more surfactants such as C₁₁-C₁₈ alkyl benzene sulfonates (LAS), C₁₀-C₂₀ alkyl sulfates (AS), C₈-C₁₈ alkyl ethoxylates with EO about 1-22, including the so-called narrow peaked alkyl ethoxylates and C₆-C₁₂ alkyl phenol alkoxylates, preferably ethoxylated alkyl phenols (see [0055-0063] on page 4). The liquid cleaning composition comprises at least 0.2% surfactant,

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more preferably from about 5% to about 70% by weight of the cleaning composition (see [0057] on page 4), and from about 1% to about 99.9% by weight of the composition of one or more cleaning adjunct materials (see [0066] on page 4). Other suitable cleaning adjunct material includes builders, enzymes, enzyme stabilizing systems and optical brighteners (see [0067] on page 4). The liquid laundry product preferably comprises a suspending agent which is a gum-type polymer such as guar gum, xanthan gum or welan (see [0068-0071] on page 5), which is present at a level of from 0.01% to 10% (see [0072] on page 5). An example of bleach activator is tetraacetyl ethylene diamine (TAED) (see [0077] on page 5) which is present in the cleaning composition in an amount from about 0.1% to about 10% by weight (see [0167] on page 11). The liquid laundry product may also optionally contain a chelating agent (see [0087] on page 5), in an amount up to about 15% by weight of the total composition (see [0092] on page 6), for example, diethylene triamine penta methylene phosphonate (see [0088] on page 6), which also reads as a peroxide stabilizer. The laundry product includes, as second part, a bleaching composition (see [0143] on page 9), which contain a suspension of a preformed peroxy carboxylic acid, which is present in the bleaching composition at a level from about 0.1% to about 25% (see [0143-0144] on page 9), and from about 0.001% to about 15%, by weight of the bleaching composition, of hydrogen peroxide (see [0162] on page 10). Scialla, however, fails to specifically disclose a two part laundry product wherein one part comprises a bleach activator and a suspending agent like xanthan gum and a second part comprising a peroxide and a peroxide stabilizer like phosphonate.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have prepared a two part laundry product wherein one part comprises a bleach

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activator and a suspending agent like xanthan gum and a second part comprising a peroxide and a peroxide stabilizer like phosphonate because the teachings of Scialla encompass these ingredients.

5. Claims 4-8, 16, 18-27, 30-33 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scialla as applied to the above claims, and further in view of de Buzzaccarini et al. (WO 01/00765), hereinafter “de Buzzaccarini”.

Scialla teaches the features as described above. Scialla, as stated above teaches that the liquid laundry product includes one or more cleaning adjunct materials like builders which are more fully disclosed in WO 01/00765 to “de Buzzaccarini” (see [0066-0067] on page 4). Scialla, however, fails to specifically disclose phosphate or TKPP (tetrapotassium pyrophosphate) as the specific builder.

De Buzzaccarini teaches P-containing detergent builders which include, but are not limited to, the alkali metal (which include potassium) salts of polyphosphates (exemplified by the tripolyphosphates, pyrophosphates and glassy polymeric meta-phosphates in a similar composition (see page 45, lines 13-15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected phosphorus containing builder like pyrophosphates of potassium because Scialla specifically desires the adjunct builder materials taught by WO 01/00765 to “de Buzzaccarini”, and said reference teaches such builders.

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6. Claims 1-3, 9-10, 12-15, 17, 28-29, 35-38 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhou et al. (EP 0,744,463), hereinafter "Zhou".

Zhou teaches a stable liquid peracid precursor composition for delivering a bleaching and cleaning material in which the liquid peracid precursor composition combines a dispersion medium which comprises a stabilizing effective amount of a liquid matrix and an emulsifier, and a dispersed phase that comprises a peracid precursor (see abstract). The peracid precursor, emulsifier and liquid matrix together constitute the core components required for a colloidal dispersion, however, peracids are generated *in situ* from a suitable peracid precursor and a suitable peroxide source, and depending upon the components used and their relative amounts, the peroxide source may either be contained within the inventive colloidal dispersions, or may be maintained in a separate liquid delivery portion using a variety of techniques also referred to herein as executions (see page 11, lines 19-24). The peracid precursor, emulsifier, liquid matrix and peroxide source along with any optional ingredients or adjuncts also constitute the components of a product formulation according to the present invention (see page 11, lines 24-25). Two (2) delivery executions include: (1) Dual delivery (II): the first portion include peracid precursor+surfactant+liquid matrix+buffer (optional); and the second portion include peroxide source; and (2) Dual delivery (IV): first portion include peracid precursor+surfactant+liquid matrix; and the second portion include peroxide source+buffer (see Table I on page 11). Peracid precursors also known as "peroxygen bleach activators" include phenyl esters and substituted polyglycoyl esters (see page 5, lines 24-30) and are present in an amount from about 0.1% to about 35% by weight of the colloidal dispersion (see page 6, lines 6-7). Preferred emulsifiers are surfactants (see page 9, line 8), for example, nonionic surfactants like alkoxylated phenol ethers,

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which are used from about 2% to 40% by weight of the total colloidal dispersion (see page 10, lines 6-35) Peroxide sources which are suitable for use include hydrogen peroxide, perborate and percarbonate (see page 12, lines 52-58). The amount of hydrogen peroxide or peroxide source used should be sufficient to deliver about 0.1% to about 25% hydrogen peroxide for admixture with the peracid precursor, regardless of the form of delivery execution employed (see page 13, lines 7-9). Under certain situations, it may be desirable to include stabilizers for the hydrogen peroxide or other peroxide source and any organic components suspended therewith, such as chelating agents like phosphonates (see page 14, lines 14-19). The colloidal dispersions may optionally contain certain adjuncts such as codispersants, surfactants, enzymes, fluorescent whitening agents, builders, thickeners, fragrance, dyes, colorants, pigments, etc. as well as mixtures thereof (see page 13, lines 13-17). Thickeners may be selected from water soluble or dispersible polymers such as polyacrylates, polymaleic acid or anhydride copolymers, guar gum, xanthan gum and the like (see page 14, lines 51-54). The range of the cleaning and aesthetic adjuncts should be in the range of 0-10% by weight (see page 14, lines 40-41). Zhou, however, fails to specifically disclose dual delivery execution wherein the first portion comprises a bleach activator and a thickener like xanthan gum and a second portion comprising a peroxide and a peroxide stabilizer like phosphonate.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have prepared dual delivery execution product wherein one part comprises a bleach activator and a thickener like xanthan gum and a second part comprising a peroxide and a peroxide stabilizer like phosphonate because the teachings of Zhou encompass these ingredients.

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7. Claims 4-8, 16, 18-21, 23-27, 30-33 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhou as applied to the above claims, and further in view of de Buzzaccarini.

Zhou teaches the features as described above. Zhou, however, fails to specifically disclose phosphate or TKPP (tetrapotassium pyrophosphate) as the specific builder.

De Buzzaccarini teaches P-containing detergent builders which include, but are not limited to, the alkali metal (which include potassium) salts of polyphosphates (exemplified by the tripolyphosphates, pyrophosphates and glassy polymeric meta-phosphates in a similar composition (see page 45, lines 13-15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected phosphorus containing builder like pyrophosphates of potassium because Zhou specifically desires the incorporation of builders and de Buzzaccarini teaches such builders suitable for similar compositions.

Conclusion

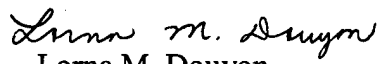
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered cumulative to or less material than those discussed above.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lorna M. Douyon
Primary Examiner
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